

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRIAN P. HANNA,

Petitioner,

v.

ROB JEFFREYS, Warden,
Respondent.

CASE NO. 2:05-cv-727
JUDGE GRAHAM
Magistrate Judge King⁶

OPINION AND ORDER

On February 22, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus be dismissed as untimely. Petitioner has objected to the Magistrate Judge's *Report and Recommendation*. Petitioner states that he is withdrawing his allegations in claim four, but otherwise objects to the Magistrate Judge's recommendation that this action be dismissed as barred by the one-year statute of limitations. Petitioner again asserts that equitable tolling of the statute of limitations is appropriate. He raises all of the same arguments that were previously presented. He specifically objects to the Magistrate Judge's conclusion that he failed to exercise due diligence in pursuing his claims, and that his untimely post conviction action and successive 26(B) applications were not "properly filed" within the meaning of 28 U.S.C. §2244(d)(2).

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* objected to by petitioner. For the reasons discussed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

It is so ORDERED.

s/James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: March 16, 2006